



May 16, 2011

Dr. Jacqueline W. Liebergott
President
Emerson College
120 Boylston Street
Boston, Massachusetts 02116-4624

Certified Mail
Return Receipt Requested
7006 2760 0002 1734 0359

RE: Program Review Report
OPE ID: 00214600
PRCN: 201040127253

Dear President Liebergott:

From July 13-15, 2010, Mr. Edward Buckley and Mr. James L. Moore, III of the U.S. Department of Education (the Department) conducted a review of Emerson College's (Emerson; the College) administration of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act is included in Section 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092(f) and the Department's implementing regulations at 34 C.F.R. §§ 668.41 and 668.46. The findings of that review are presented in the enclosed report.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions required to comply with those statutes and regulations. Please review the report and respond to each finding, indicating the corrective actions taken or to be taken by Emerson. The response should include a brief, written narrative for each finding that clearly states Emerson's position regarding the violation and the corrective actions taken or to be taken to resolve the noted exception. Separate from the written narrative, Emerson must provide supporting documentation as directed in the "Required Action" section of each finding.

School Participation Team - New York/Boston
www.FederalStudentAid.ed.gov
1-800-4-FED-AID

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Please submit your response directly to Mr. Moore at the following address within 60 calendar days of the College's receipt of this program review report:

Mr. James L. Moore, III
Senior Institutional Review Specialist
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107

Please note that pursuant to HEA section 498A (b), the Department is required to:

1. provide to the institution an adequate opportunity to review and respond to any preliminary program review report¹ and relevant materials related to the report before any Final Determination is issued;
2. review and take into consideration an institution's response in any Final Determination, and include in the Final Determination:
 - a) A written statement addressing the institution's response;
 - b) A written statement of the basis for such report or determination; and
 - c) A copy of the institution's response.

The Department considers the institution's response to be the written narrative (to include e-mail communication). Any supporting documentation submitted with the institution's written response will not be attached to the Final Program Review Determination (FPRD) letter. However, it will be retained and available for inspection by Emerson upon request. Copies of the program review report, the institution's response, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after the FPRD is issued.

Please be sure that your response conforms to the Department's standards for the protection of Personally Identifiable Information (PII). PII being submitted to the Department. PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). Please review the enclosure entitled "Protection of Personally Identifiable Information" for further guidance.

Program records relating to the period covered by this program review must be retained until the later of: resolution of the violations, weakness, and other issues identified during the program review or the end of the applicable retention period under 34 C.F.R. § 668.24 (e)(1) and (e)(2).

¹ A "preliminary" program review report is the program review report. The Department's final program review report is the Final Program Review Determination (FPRD).

We would like to express our appreciation for the courtesy and cooperation extended during the review. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions, please contact Mr. Moore on (215) 656-6495 or at james.moore@ed.gov.

Sincerely,

A large black rectangular redaction box covering the signature of the sender.

/ Ms. Betty Coughlin
Area Case Director
New York/Boston School Participation Team

cc: Mr. George Noonan, Director of Public Safety, Emerson
Ms. Michelle Smith, Director of Student Administrative Services, Emerson
Ms. Betsy Facher Rauch, Associate General Counsel, Emerson
Mr. John T. Graff, Attorney at Law, Ciampa Frey-Witzer, LLP

Attachments & Enclosures as Stated



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GO FURTHER
FEDERAL STUDENT AID

Prepared for:
Emerson College

OPE ID: 00214600
PRCN: 201040127253

Prepared by:
U.S. Department of Education
Federal Student Aid
School Participation Team – New York/Boston

Program Review Report

May 16, 2011

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A. Institutional Information

Emerson College
120 Boylston Street
Boston, MA 02116-4624

Type: Private, Non-Profit

Highest Level of Offering: Masters

Accrediting Agency: New England Association of Colleges and Schools - CHE

Current Student Enrollment: 3,500 (Undergraduate); 850 (Graduate) (Approx. 2009/2010)

% of Students Receiving Title IV: 65% (Approx. 2009/2010)

Title IV Participation Funding Level:	2008/2009 Award Year
Federal Family Education Loan Program	\$ 30,319,356
Federal Pell Grant Program	\$ 1,225,184
Federal Perkins Loan Program	\$ 440,975
Federal Supplemental Education Opportunity Grant Program	\$ 492,011
Federal Work-Study Program	\$ 663,701
Academic Competitiveness Grant Program	\$ 137,334
Total	\$ 33,278,561

FFEL/DL Default Rate: 2007 - 0.7 %
2006 - 0.7 %
2005 - 0.4 %

Perkins Default Rate: As Of:
6/30/07 - 1.4%
6/30/06 - 7.3%
6/30/05 - 16.1%

Emerson College (Emerson; the College) offers undergraduate and graduate programs in communication, journalism, literature, and the visual and performing arts. Situated in Boston's Theatre District, Emerson is a vertical, urban campus that is bordered by the Boston Common. The Boston campus is comprised of nine main buildings as well as athletic and performance venues. The Emerson College Department of Public Safety (ECDPS) provides law enforcement services to more than 4,300 students and 950 faculty and staff members at the main campus on a 24 hour-a-day, 365 day-a-year basis. The ECDPS consists of 23 sworn police officers. ECDPS officers are appointed as Special State Police Officers under the Massachusetts Commonwealth

code. ECDPS officers are not authorized to carry firearms but do have the same power to make arrests as regular police officers for any criminal offense committed in or upon lands or structures owned, used, or occupied by Emerson. The ECDPS maintains a close working relationship with the Boston Police Department.

Emerson also has Centers in Los Angeles and Kasteel Well in The Netherlands. The Centers rely primarily on local law enforcement agencies for protection and emergency services. The Executive Directors of the Centers are designated as the primary Campus Security Authority (CSA) and are responsible for coordinating the efforts of other CSA's and ensuring Clery Act compliance at the Centers.

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Emerson from July 13-15, 2010. The review was conducted by Mr. James L. Moore, III and Mr. Edward Buckley.

The focus of the review was to evaluate Emerson's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act is included in §485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1092(f). The Department's implementing regulations are at 34 C.F.R. §§ 668.41-668.46.

Emerson was selected for review from a list of all institutions of higher education (IHE) in the Commonwealth of Massachusetts with sworn police departments and was not the result of any specific complaint or allegation of non-compliance. The review consisted of an examination of Emerson's police incident reports, arrest records, and disciplinary files as well as policies and procedures related to the Clery Act. Interviews of institutional officials with Clery Act responsibilities were also conducted.

The Department reviewed a sample of 188 Emerson College incident, arrest, and disciplinary reports generated in the course of policing and student conduct operations during calendar year 2008. These reports documented incidents of Group A and B offenses reported to the ECDPS and/or the Student Conduct Office including a sample of Group B disciplinary referrals for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons. Both random and judgmental sampling techniques were used to select reports for this review. Approximately 25 ECDPS incident reports were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning the institution's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Emerson of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs including the Clery Act.

While this report reflects the initial findings of the Department, they are not final. The Department will issue a Final Program Review Determination letter at a later date.

C. Findings

During the review, some areas of non-compliance were identified. Findings of non-compliance are referenced to the applicable statutes and regulations, and specify the actions that Emerson must take to bring campus policing and security operations into compliance with the Clery Act, statutes, and regulations.

Finding 1: Failure to Properly Classify and Disclose Crime Statistics

Citation:

The Clery Act and the Department's regulations require Title IV participating institutions to request, compile, publish, and distribute statistics concerning the occurrence on campus of the following crimes during the three most recent calendar years: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, institutions are required to disclose arrests and disciplinary referrals involving violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1). For Clery Act reporting purposes, participating institutions must classify incidents of crime based on the definitions in Appendix A to Subpart D of Section 668 of the General Provisions Regulations. 34 C.F.R. § 668.46 (c)(7). For the purposes of this finding we have reprinted the definition of aggravated assault: *an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.* The UCR considers a weapon to be a commonly known weapon (a gun, knife, club, etc.), and a fist is consider a personal weapon.

Each participating institution must also submit its crime statistics to the Department for inclusion in its online campus crime statistics database. 34 C.F.R. § 668.41 (e)(5).

Noncompliance:

A. Improper Crime Classifications

Emerson College failed to properly classify two reported incidents in accordance with the Clery Act's crime categories. Specifically, incident # 08-0479 was improperly coded as "Assault and Battery." In this case, a male victim was beaten into a state of unconsciousness and was "bleeding heavily from the face area." The victim was transported by ambulance to Tufts Medical Center for treatment of a "severe facial injury." The victim's injuries were sustained during a "large fight" that concluded at the Emerson College Bookstore. The bookstore is operated by Barnes & Noble under a contract with Emerson. Based on our review of this case, this incident should have been coded as an "Aggravated Assault" and therefore should have been included in Emerson's campus crime statistics.

Incident # 08-0257 was also classified incorrectly as "Assault and Battery." In this case, ECDPS officers were investigating a report of a fight at 80 Boylston Street between a male assailant and a female victim. During questioning, the assailant struck an ECDPS officer in the throat with a closed fist. The assailant then fled on foot and was pursued by four ECDPS officers. During the foot pursuit, the assailant "made several gestures that he had a gun in his waistband." Due to concerns that the subject might be armed, the Boston Police Department (BPD) was called and BPD officers joined in the search for the suspect. Although the incident was not properly classified, it was included on Emerson's audit trail as an on-campus "Aggravated Assault;" however Emerson's Annual Security Report (ASR) and its submission to the Department's online campus crime database indicated that no on-campus Aggravated Assaults were reported during calendar year 2008.

Because assault and battery offenses are not counted for Clery Act purposes, these classification errors caused Emerson's crime statistics to be under-reported.

B. Inaccurate Disciplinary Referral Statistics

Emerson failed to disclose accurate disciplinary referral statistics for calendar year 2008. Emerson reported that a total of 348 on-campus liquor law violations (LLV) were referred for disciplinary action in 2008. An additional 37 LLV disciplinary referrals (DRs) were disclosed for offenses occurring in or on non-campus buildings and property (NCBP). Similarly, Emerson reported 52 on-campus drug law violation (DLV) DRs as well as 28 additional DLV DRs that occurred in or on NCBP.

Emerson, however, was not able to substantiate the accuracy and completeness of its 2008 DR statistics for liquor and drug law violations. Emerson's audit trail indicated 428 LLV DRs as occurring in the same calendar year; however as noted above only 385 referrals were disclosed in its 2009 ASR (On-Campus: 348; NCBP: 37). Similarly, Emerson's audit trail indicated 88 DLV DRs as occurring in the calendar year; however as noted above only 80 such referrals were disclosed in its 2009 ASR (On-Campus: 52; NCBP: 28).

The following charts illustrate the discrepancies noted between the ASR and the audit trail for **Liquor and Drug Law Violations Referrals:**

Referrals for Liquor Law Violations	On Campus	Non-campus Building & Property	Total
Emerson's ASR	348	37	348
Emerson's Audit Trail	Not Specified	Not Specified	428

Referrals for Drug Law Violations	On Campus	Non-campus Building & Property	Total
Emerson's ASR	52	28	80
Emerson's Audit Trail	Not Specified	Not Specified	88

The reasons for this variance could not be entirely ascertained; however institutional officials surmise that some DRs may have been determined to not constitute law violations. Another possible explanation posited by institutional officials was that the number of incidents may have been included in the count rather than the number of actual offenders cited in those incidents. Notwithstanding these possible explanations, the Department must be able to rely on supporting documentation, such as an audit trail, to test the accuracy and completeness of the College's crime statistics and must construe any identified discrepancy as a violation.

Failure to classify and disclose incidents of crime reported in an accurate and complete manner violates the HEOA and the Department's regulations and deprives the campus community and the public of vitally important information regarding crime and safety concerns.

Required Action:

As a result of this finding, Emerson must correct all errors in its crime statistics. This requirement applies to the exceptions noted above and all other errors identified during the preparation of the response. As part of its response preparation, Emerson must also make all necessary corrections to the audit trails provided to the Department.

Emerson must also review and revise its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the Emerson DPS, non-law enforcement campus security authorities, and other local law enforcement agencies are properly classified and included in the College's ASR, which will have to be amended and distributed in accordance with instructions that will be provided in our Final Program Review Determination letter.

Copies of Emerson's revised calendar year 2008 audit trails of crime statistics and disciplinary referrals and its revised ASR must accompany the College's response. The modified ASRs must be evaluated by the Department before being published and distributed to current students and employees.

If Emerson believes that one or more of the initial crime classifications or statistics challenged in this finding were in fact correct, the College must provide an explanation along with documentation in support of its position that shows that the incident was in fact classified and disclosed properly.

Based on an evaluation of all available information, including Emerson's response, the Department will determine if additional actions are necessary and advise the College accordingly in our Final Program Review Determination letter.

Finding 2: Failure to Establish a Means to Request and Disclose Disciplinary Referral Statistics for Additional Locations and/or Non-Campus Buildings/Property

Citation:

An institution's ASR must include statistics of incidents of Clery-reportable crimes that occurred in any buildings or on any property covered by the definitions in 34 C.F.R. § 668.46(c)(4). The geographical categories are on-campus including residence halls, non-campus buildings and property, and public property that is immediately adjacent to and accessible from the campus.

An institution must comply with the statistical reporting requirements for each administrative division, location, or property that is considered a separate campus and is not in the same reasonably contiguous geographical area as the main location. 34 C.F.R. § 668.46 (d)

Noncompliance:

Emerson failed to establish a mechanism for requesting disciplinary referral statistics from CSAs at the Los Angeles Center and the European Center at Kasteel Well, The Netherlands. During the site visit, the Department ascertained that no disciplinary referrals for liquor or drug law violations were disclosed for calendar year 2008. The review team attempted to evaluate the accuracy of those statistics as well as the College's procedures for collecting disciplinary referral statistics from CSAs. Institutional officials conceded that there were no substantive procedures for collecting such statistics nor was there a means to document its efforts to comply with this requirement for the Los Angeles and European Centers. Although the precise extent of underreporting cannot be known, the College's failure to develop and implement a substantive data collection process necessarily resulted in the exclusion of disciplinary referral statistics that were required to be disclosed in Emerson's ASRs for the Center locations.

Failure to comply with the Clery Act's requirements for each separate campus of the College violates the HEOA and the Department's regulations and deprives that particular campus community of crime information that is most relevant to their safety and security.

Required Action:

As a result of this finding, Emerson must establish policies and procedures that will ensure that statistics of all incidents of crime reported to law enforcement or a campus security authority that occur at or near the Los Angeles and European Centers will be collected, compiled, published, and distributed to students and employees via the ASR.

Emerson must also formalize its College-wide policies and procedures for requesting crime statistics in all Clery-reportable categories from local law enforcement agencies. And, Emerson must attempt to obtain 2008 and 2009 statistics of LLV and DLV disciplinary referrals made by CSAs as well as any other incidents of crimes reported to local law enforcement as occurring at the Center locations. Emerson also must prepare a summary report of the outcome of its internal and external data request efforts. The College must use the collected data to correct its crime, arrest, and disciplinary referral statistics as published in its ASR's and submitted to the Department's on-line database and prepare modified ASRs.

Once the modified ASRs are evaluated by the Department, Emerson will be required to publish and distribute the modified ASRs to all current students and employee and to edit its submission to the online database. Copies of the modified ASRs for the Center locations must accompany Emerson's official response.

If Emerson is unable to obtain statistics for any of its locations for calendar years 2008 and/or 2009, Emerson must provide an explanation and supporting documentation detailing its good faith efforts to obtain such statistics.

Based on an evaluation of all available information, including Emerson's response, the Department will determine if additional actions are necessary and advise the College accordingly in our Final Program Review Determination letter.